

**PATENT**

Application No. 10/047,454  
Amendment dated October 12, 2005  
Amendment under 37 CFR 1.116 Expedited Procedure  
Examining Group 2878

**REMARKS/ARGUMENTS**

All claims have been allowed subject to an obviousness-type double patenting rejection. In response to the obviousness-type double patenting rejection, Applicant's undersigned attorney signed a Terminal Disclaimer in the good faith belief that he was an attorney of record.

In an Advisory Action mailed October 4, 2005, Applicant's undersigned attorney was notified that he was not an attorney of record, and that the Terminal Disclaimer had been disapproved. Upon receipt of the Advisory Action, it was determined that a copy of the Revocation and Substitution from this application's parent (U.S. Patent Application No. 08/776,361, filed May 16, 1997) had not been filed at the time of filing this continuation on January 14, 2002.

In parent Application No. 08/776,361, of which this is a continuation, Applicant's assignee signed a Revocation and Substitution of Power of Attorney Under 37 CFR §1.36 naming the undersigned and others as attorneys of record. Attached are copies of the following:

- Revocation And Substitution of Power of Attorney Under 37 CFR §1.36 filed in U.S. Patent Application No. 08/776,361;
- Return receipt postcard date-stamped November 13, 2000, evidencing the receipt by the USPTO of the above Revocation and Substitution; and
- Notice Regarding Power of Attorney mailed November 16, 2000 indicating that the Power of Attorney had been accepted.

In view of this, Applicant's undersigned is certainly an attorney of record as of today, and, for the reasons stated below, should be recognized as an attorney of record as of the filing of the application.

The current version of 37 C.F.R. § 1.63(d)(4), which does not differ materially from the version in effect at the time of filing the application, reads as follows:

Where the power of attorney or correspondence address was changed during the prosecution of the prior application, the change in power of attorney or correspondence address must be identified in the continuation or divisional application. Otherwise, the Office may not recognize in the continuation or divisional application the change of power of attorney or correspondence address during the prosecution of the prior application.

PATENT

Application No. 10/047,454  
Amendment dated October 12, 2005  
Amendment under 37 CFR 1.116 Expedited Procedure  
Examining Group 2878

While a copy of the previous Revocation and Substitution was not filed, the ADS filed with the application did identify the new representative information and correspondence address.

Further, even if it were considered that the ADS did not constitute identification of the changed representative and address, the above rule would still permit the Office to have recognized the undersigned as attorney of record at the time of filing.

In order to expedite the prosecution of this application, Applicant's undersigned attorney of record is submitting a new Terminal Disclaimer dated contemporaneously with the filing of this response.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



David N. Slone  
Reg. No. 28,572

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 650-326-2400  
Fax: 415-576-0300  
Attachments  
DNS:vap

60608649 v1

TO THE U.S. PATENT OFFICE: Please acknowledge the date of receipt of the following documents, by stamping and returning this postcard to us:

**TITLE OF DOCUMENT:**

REVOCATION AND SUBSTITUTION OF POWER OF ATTORNEY;  
PETITION FOR EXTENSION OF TIME;  
NOTICE OF APPEAL

Date Due: 10-5-00  
App. No.: 08/776,361  
Date Mailed: 11-6-00  
File No.: 15772-000400  
Attorney: DNS:dd

NOV 16 2000



Please stamp the date of receipt of the enclosed documents and return this card to addressee.

TO THE U.S. PATENT OFFICE: Please acknowledge the date of receipt of the following documents, by stamping and returning this postcard to us:

**TITLE OF DOCUMENT:**

REVOCATION AND SUBSTITUTION OF POWER OF ATTORNEY;  
PETITION FOR EXTENSION OF TIME;  
NOTICE OF APPEAL

Date Due: 10-5-00  
App. No.: 08/776,361  
Date Mailed: 11-6-00  
File No.: 15772-000400  
Attorney: DNS:dd

Please stamp the date of receipt of the enclosed documents and return this card to addressee.

OCT. 12. 2005 4:57PM

TTC-PA 650-326-2422

NO. 5078 P. 12

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
Assistant Commissioner for Patents, Washington, D.C. 20231

**PATENT**  
Attorney Docket No.: 15772-000500

On November 6, 2000  
By: M. Diane Dubé

RECEIVED  
CENTRAL FAX CENTER

OCT 12 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

VICTOR B. KLEY

Application No.: 08/776,361

Filed: May 16, 1997

For: SCANNING PROBE MICRO-  
SCOPE ASSEMBLY AND  
METHOD FOR MAKING  
SPECTROPHOTOMETRIC,  
NEAR-FIELD, AND SCANNING  
PROBE MEASUREMENTS

Examiner: J.R. Lee

Art Unit: 2878

TRANSMITTAL LETTER

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Enclosed for the referenced matter are the following:

1. Revocation and Substitution of Power of Attorney Under 37 CFR § 1.36;
2. Notice of Appeal; and
3. Petition for Extension of Time.

Applicant would particularly like to draw the attention of the Patent Office to the enclosed Revocation and Substitution of Power of Attorney Under 37 CFR §1.36.

Please call the undersigned at 650-326-2400 with any questions regarding any of the enclosures.

Respectfully submitted,

*David Slone*

David N. Slone  
Reg. No. 28,572

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, California 94111-3834  
Telephone: (650) 326-2400  
Facsimile: (650) 326-2422  
PA 3108226 v1

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
Assistant Commissioner for Patents, Washington, D.C. 20231

PATENT  
Attorney Docket No.: 15772-000400

on November 6, 2005

RECEIVED  
CENTRAL FAX CENTER

TOWNSEND and TOWNSEND and CREW LLP

OCT 12 2005

By M. Diane Dubé

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

VICTOR B. KLEY

Examiner: J.R. Lee

Art Unit: 2878

Application No.: 08/776,361

Filed: May 16, 1997

REVOCATION AND SUBSTITUTION  
OF POWER OF ATTORNEY UNDER  
37 CFR § 1.36

For: SCANNING PROBE MICROSCOPE  
ASSEMBLY AND METHOD FOR  
MAKING SPECTROPHOTOMETRIC,  
NEAR-FIELD, AND SCANNING  
PROBE MEASUREMENTS

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Pursuant to 37 CFR § 1.36, General Nanotechnology LLC, revokes all previous powers of attorney and hereby appoints the following to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

David N. Slone, Reg. No. 28,572  
Paul C. Haughey, Reg. No. 31,836  
Kenneth R. Allen, Reg. No. 27,301  
William L. Shaffer, Reg. No. 37,234  
Babak S. Sani, Reg. No. 37,495  
Philip H. Albert, Reg. No. 35,819

Please direct all future correspondence regarding the subject application to:

PATENT

VICTOR B. KLEY  
Application No.: 08/776,361  
Page 2

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8th Floor  
San Francisco, CA 94111-3834  
Telephone: 650-326-2400  
Facsimile: 650-326-2422

GENERAL NANOTECHNOLOGY LLC

Date:

11/6/00

By

  
Victor B. Kley

Its President and CEO

PA 3108075 v1

OCT. 12. 2005 4:57PM

TTC-PA 650-326-2422

015772-0004 NO. 5078 P. 15



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
08/776,361	05/16/1997	VICTOR B. KLEY	15772-000400

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8th Floor  
San Francisco, CA 94111-3834



Date Mailed: 11/16/2000

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/13/2000.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

TOWNSEND AND CREW LLP  
NOV 20 AM 9:26  
RECEIVED

*Shirley M. Chinnery* 306-5554  
Customer Service Center  
Initial Patent Examination Division (703) 308-1202  
ATTORNEY/APPLICANT COPY

file://C:\APPS\PreExam\correspondence\1\_A.xml

11/15/00



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
08/776,361	05/16/1997	VICTOR B. KLEY	A-39632-2/AJ

FLEHR HOHBACH TEST  
ALBRITTON & HERBERT  
SUITE 3400 FOUR EMBARCADERO CENTER  
SAN FRANCISCO, CA 94111

\*OC000000005559339\*

\*OC000000005559339\*

Date Mailed: 11/16/2000

## NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/13/2000.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Customer Service Center  
Initial Patent Examination Division (703) 308-1202

NEW ATTORNEY/AGENT COPY

file://C:\APPS\PreExam\correspondence\1\_B.xml

11/15/00